

**Approved: September 2, 2015**  
**Distributed: September 9, 2015**

**IPSWICH CONSERVATION COMMISSION**  
**Meeting Minutes**  
**July 1, 2015**

Pursuant to a written notice posted by the Town Clerk and delivered to all Conservation Commission members, a meeting was held Wednesday, 7:00 p.m. in Room A of the Ipswich Town Hall. Members present were Chairman Jennifer Hughes, Vice-Chair Sissy ffolliott, Commissioners David Standley, Brian O'Neill, Catherine Carney-Feldman, William McDavitt and Michele Hunton. Also present was Agent Alicia Geilen and Recording Secretary Cathy Miaskiewicz. Absent with prior notice was Associate Commissioner Raymond Putnam

**DEFINITION INDEX:**

**BVW** - Bordering Vegetative Wetland

**COC** – Certificate of Compliance

**CR** – Conservation Restriction

**DEP** - Department of Environmental Protection

**EO** – Enforcement Order

**ICC** – Ipswich Conservation Commission

**NOI** – Notice of Intent

**NDZ** – No-Disturbance Zone

**O & M Plan** – Operations and Maintenance Plan: An O&M plan is an indication that a facility is in continued compliance with applicable regulations and permit conditions

**OOB** – Order of Conditions

**ORAD** – Order of Resource Area Delineation

**RDA** – Request for Determination of Applicability (*below is a list of possible outcomes for RDAs*)

**Negative #2 Determination**– This is an approval for work in in resource areas

**Negative #3 Determination**– This is an approval for work in in buffer zones

**Negative #5 Determination** – This is approval for work that meets the requirements of an exception under the WPA

**Negative #6 Determination**– This is an approval for work under the Ipswich Wetland Protection Bylaw

**Positive Determination** – This is a denial requiring an NOI to be filed should the applicant wish to pursue

**RPA** - Riverfront Protection Act

**WPA** – Massachusetts Wetlands Protection Act (310 CMR 10.00 *et seq.*)

**Citizen's Queries:**

<b>MATTER: U.S. Fish &amp; Wildlife Service:</b> request for guidance for change in herbicide to be used under Negative Determination of Applicability for pepperweed control.
<b>DISCUSSION:</b> Nancy Pau from the U.S. Fish & Wildlife Service was present to request a change in the type of herbicide used for pepperweed control. The applicant provided the Agent with Safety Data Sheets. Chairman Hughes was fine with the alternative herbicide and stated that this change did not require a new filing. [Discussion of Escort® and the effects of current herbicide.]

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<b>RECOMMENDATION OF AGENT:</b> Allow the substitution without requiring a new filing.
<b>MOTION:</b> ♦ N/A
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> ❖ None
<b>DOCUMENT LIST:</b> <i>SePRO SDS for Habitat Herbicide dated 5/13/15, DuPont MSDS for Escort Herbicide rev date 4/26/12 and BASF Corp Habitat Herbicide Doc not dated</i>

<b>MATTER: Chicken Little Farm:</b> request for guidance on appropriate form for establishing the “Farm Gate” and approval for work under the Agricultural Exemptions at 310 CMR 10.04 (Agriculture).
<b>DISCUSSION:</b> Present was owner Cole Desmond. Agent Geilen explained that Mr. Desmond would like to establish a piggery on a portion of his land, within historic agricultural fencing. As this area is partially Bordering Vegetated Wetlands, the Agent was not sure if an RDA or an NOI was more appropriate. Chairman Hughes suggested having a site visit to make determinations. Commissioner O’Neill asked about the term “Farm Gate”. Agent Geilen explained it refers to the aerial extent of Land In Agricultural Use, as defined by the state. Only activities within Land In Agricultural Use are afforded the Agricultural Exemption under 310 CMR 10.04.
<b>RECOMMENDATION OF AGENT:</b> <i>To be handled under an NOI, based on 66 Town Farm Road.</i>
<b>MOTION:</b> ♦ N/A
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> ❖ <i>Agent Geilen will set up a site visit.</i>
<b>DOCUMENT LIST:</b> <i>Google Earth aerial photos (Farm Gate and Piggery 2) dated 9/27/14</i>

**Ongoing Matters Being Continued to FUTURE Sessions:**

<b>MATTER: 36-81: Site Management Plan:</b> Miles River Sand and Gravel; <b>64 Paradise Road,</b> to discuss Best Management Practices. <i>Request continuance to 7/15/15.</i>
<b>DISCUSSION:</b> There was no one present for this matter.
<b>RECOMMENDATION OF AGENT:</b> <i>To continue to July 15, 2015.</i>
<b>MOTION:</b> ♦ A motion was made by Commissioner Standley to continue to July 15, 2015. The motion was seconded by Commissioner O’Neill and passed unanimously.
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> ❖ None
<b>DOCUMENT LIST:</b> <i>Request for continuation</i>

**Ongoing Matters for THIS Sessions:**

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<b>MATTER: 36-1255: YMCA</b> for work at <b>110 County Road</b> shown on <b>Tax Map: 54A Lot: 6</b> for a <b>NOTICE OF INTENT</b> to <b>construct addition, outdoor pool, splash park and stormwater drainage upgrades</b> in jurisdictional areas.
<b>DISCUSSION:</b> No one was present for this matter. Agent Geilen stated that the applicant had submitted all requested information and that the only changes, per the Planning Board, were two notes to one drawing at the request of the Fire Chief related to the turnaround. We have received those revised plans, and they are referenced in the draft OOC and Special Conditions.
<b>RECOMMENDATION OF AGENT:</b> <i>To close the hearing and issue a positive OOC with Special Conditions as drafted.</i>
<b>MOTION:</b> <p style="text-align: center;">♦ <b>A motion was made by Commissioner Carney-Feldman to close the public hearing and issue a Positive OOC with Special Conditions as drafted by the Agent. The motion was seconded by Commissioner McDavitt and passed unanimously.</b></p>
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> <p style="text-align: center;">❖ <i>None</i></p>
<b>DOCUMENT LIST:</b> <i>Revised plan entitled "Site Grading Plan" revision date 6/23/15 and prepared by Meridian Associates</i>

<b>MATTER: 36-1259: Justin McCarthy</b> for work at <b>357 Linebrook Road</b> shown on <b>Tax Map: 27C Lot: 015</b> for a <b>NOTICE OF INTENT</b> for <b>septic system repair, parking area improvements and to rebuild house</b> in jurisdictional areas.
<b>DISCUSSION:</b> Present was Larry Graham of H.L. Graham Associates representing Mr. McCarthy for this matter. Mr. Graham spoke of revisions to the plans, based on comments at the last meeting (garage is out of the NDZ; NDZ signage added; and mitigation area added). [Discussion of signs, square footage in zone, re-flagging of wetlands.] Chairman Hughes suggested adding a NDZ sign behind the house, which was agreed to by Mr. Graham. Mr. Graham discussed the FEMA floodplain and stated they filed a Letter Of Map Revision with FEMA. Chairman Hughes stated that, although the Commission did not have to wait for a FEMA response, a special condition should be included that notes if FEMA does not change the floodplain, the applicant would need to propose floodplain compensation via a Formal Amendment to the OOC. [Discussion of elevations, photo mapping.] Agent Geilen discussed her recommendations (below). Mr. Graham stated he would talk to his client about the fence, but thought it might not be well received due to the cost. [Discussion of change in NDZ signage. Commissioner Carney-Feldman suggested a different direction near the mitigation area.]
<b>RECOMMENDATION OF AGENT:</b> <i>To continue to July 15, 2015 for the following recommendations:</i> <ol style="list-style-type: none"> <li><i>1. Add a split rail fence be installed from the NDZ marker south of the garage and north along the Mitigation area, then continuing north 5' off the back and side of the garage, and ending at the NDZ marker off the northeast corner of the house.</i></li> <li><i>2. Submit a simple mitigation area planting plan for addition of native shrubs in the new NDZ, and ensure that the additional impacts around the back/side of the garage are taken into account.</i></li> </ol>
<b>MOTION:</b> <p style="text-align: center;">♦ <b>A motion was made by Vice-Chair ffolliott to approve the requested waivers, close the public hearing and issue the OOC to be signed within 21 days. The motion was seconded by Commissioner Standley and passed unanimously.</b></p>
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> <p style="text-align: center;">❖ <i>None</i></p>

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**DOCUMENT LIST:**

*Additional materials packet dated 6/18/15 prepared by H.L. Graham Assoc. Inc., including revised plan entitled "Permit Plan prepared by Justin McCarthy" dated 6/18/15 and prepared by H.L. Graham Assoc. Inc.*

**MATTER: 36-1253: Riverine, LLC** for work at **27 Water Street** shown on **Tax Map: 31D Lot: 91A** for a **NOTICE OF INTENT to reconstruct multi-family home, gangway/ramp and floats and construction of public access deck** in jurisdictional areas.

**DISCUSSION:** Present were Larry Graham of H.L. Graham Associates and Curt Young of Wetlands Preservation Inc. Mr. Young discussed the documents and revised plans submitted. Mr. Young had a chance to review the recommendations from Agent Geilen. Agent Geilen suggested going through her recommendations so the Commission could respond (See 6-29-15 memo). Notes from Agents memo (number denotes section of the Agent's memo discussed):

**1. Property Boundary Determination.** Agent Geilen referred to a letter from Town Counsel regarding Riverine's claim of title. (See separate letter.) It stated that the property determination matter was resolved and the Commission may proceed with the NOI. *ICC and applicant agree with Agent.*

**2. Rivers Protection Act Exemptions: 1) replacement of structure destroyed by fire, and 2) activities and structures regulated by Ch. 91.** Agent Geilen discussed input from DEP: change in use did not impact exemption #1, but all portions of the new building needed to be within the former building's footprint, which the proposed structure was not. Any appurtenances associated with the replacement structure (driveway, decks, etc.) are not included in this exemption. [Discussion: presence of vegetation means presence of topsoil, hence the area is not "degraded".] The second exemption does not exempt structures and activities from compliance with the Wetlands Protection Act (WPA). [Discussion of percentages of lot to be "structures".] *ICC agrees with Agent. Applicant does not agree with the interpretation of the exemption for replacement of structures or that the site is not "degraded" as stated above. The Applicant agrees the project is not exempt from other resource area performance standards in the regulations.*

**3. Impervious Surface.** Chairman Hughes stated that decks were always considered impervious. [Discussion: cantilevered area as potentially impervious.] Commissioner Standley stated that this property is a green site, that it was undeveloped for 9 years and bought as a green site. [Discussion of Riverfront regulations] Mr. Graham stated they could break out the loam/seed/gravel areas and be more specific. *ICC agrees with Agent. The Applicant disagrees that the site is a "green" site. For purposes of the NOI application the Applicant is considering the decks to be impervious.*

**4. Stormwater Management (SWM).** Agent Geilen stated that additional details are needed. Chairman Hughes stated soil testing is needed to determine seasonal high water table, and soil permeability, for use in SWM design. Commissioner Standley stated soil testing is needed to check for contamination. [Discussion: mechanism for permission to perform soil testing.] Chairman Hughes suggested issuing an EO under the Bylaw for soils testing, as it is exempt under the WPA. [Discussion: no stockpiling of soils on site; frac tank needed for dewatering.] Agent Geilen noted that the peer review of the stormwater report listed several action items that need to be addressed. *ICC and applicant agree with Agent.*

**5. Resource Area Delineation/Regulatory Compliance Analysis and Revised Plans.** Agent Geilen noted that Coastal Bank is present on the site and limit of work encroaches into BVW. Mr. Graham agreed to revise the plans. Agent Geilen noted that the "existing rock pile (to be removed)" is located in the Ipswich River, and is not included in the discussion of resource area impacts. Mr. Young stated that he had committed to the previous Agent to remove the rock pile. Agent Geilen stated that impacts from this activity must be quantified and restoration provided, as applicable. *ICC and applicant agree with Agent.*

Agent Geilen recommended the Commission find the area between high water and low water as Coastal Beach.

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*The Commission and the applicant did not agree with the Agent.*

[Discussion of Shellfish Growing Area.] Chairman Hughes agreed with the Agent that activities near a shellfish growing areas must be considered in SWM design. *ICC and applicant agree with Agent.*

[Discussion: sending Resource Area Delineation/Regulatory Compliance Analysis/Mitigation Plan out for peer review.] The Commission agreed that a wetland scientist should review the document. Mr. Young thought it was premature, as the document would be revised, based on tonight's discussions. The Commission and Agent Geilen agreed. Mr. Young stated the reviewer should be a Certified Wetland Scientist. Agent Geilen said she could give the existing document for quotes. *Peer review will not occur until a revised document is submitted.*

**6-9: Regarding underground utilities, activities proposed in Town's Right-of-Way, work within 100' BZ to wetlands, and compliance with Planning and Zoning regulations.** *These matters were not discussed in detail due to time constraints, but ICC generally agreed with Agent's recommendations.*

**10: Applicability of the NDZ and NBZ.** [Discussion: applicant's waiver request #1 of 6/23/15.] Mr. Young stated that the subzone requirements in the regulations under the Bylaw do not apply to projects exempt from state regulation. Chairman Hughes stated that although portions of the project are exempt under the RPA, the project as a whole is not exempt under the WPA. Mr. Young disagreed. Commissioner Standley stated they will take his position under advisement. Mr. Young requested that Town Counsel be asked to interpret the bylaw. Commissioner Standley stated that as the Commission had written the Bylaw, they were the best persons to interpret it.

[Discussion: public viewing deck interfering with public's access to the river for launching small (non-motorized) watercraft.] Commissioner Standley recommended siting the structure away from this public launch area.

[Discussion: applicant's waiver request #2 of 6/23/15.] Mr. Young requested that the Commission waive the following mitigation requirements for work in the NDZ and NBZ: a. that mitigation is calculated on an area basis; b. that mitigation be on the applicant's property; and c. that mitigation be in the form of "real property" as opposed to "monetary contribution".

The Commission responded as follows: a. mitigation should be on an area basis; b. mitigation work does not necessarily need to be on the project site, or owned by the applicant, and c. mitigation in the form of "monetary contribution" is not appropriate in this case. In addition, the Commission found that preservation and/or enhancement of vegetation are the primary concerns to the Commission, with respect to this project, not off-site stormwater improvements. [Discussion: possible mitigation for this project: enhancing vegetative buffers adjacent to wetlands on site (i.e., creating a NDZ); and offsite Coastal Bank improvements along the Ipswich River.

Mr. Young also noted that the applicant wishes to repair seawall as part of this NOI. Mr. Young was directed to include this in his revised Resource Area Delineation/Regulatory Compliance Analysis/Mitigation plan.

**Abutter:** John Fisk of 12 Water Street. Mr. Fisk asked about the requirements for building a structure in the floodplain. He was also concerned about the impacts from sea level rise in the future. Chairman Hughes stated that the Commission may not regulate project based on future sea level rise. She also noted that, unlike project proposed in inland floodplains, projects proposed in coastal floodplains do not require floodplain compensation.

**RECOMMENDATION OF AGENT:**

*Continued to August 5, 2015 for receipt of information listed in Agent's memo.*

**MOTION:**

♦ **A motion was made by Commissioner Standley to continue to August 5, 2015. The motion was seconded by Commissioner O'Neill and passed unanimously.**

**ACTION ITEMS / SPECIAL INSTRUCTIONS:**

❖ *Agent Geilen to send the current Resource Area Delineation/Regulatory Compliance*

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- Analysis/Mitigation Plan out for quotes from certified wetland scientists.*
- ❖ *Applicant to submit revised plans and regulatory analysis that address Agent's memo and Commission comments.*

### DOCUMENT LIST:

*Waiver request dated 6/23/15 and prepared for LeBlanc, Land Use document dated 6/16/15 and prepared by Rackmann Sawyer and Brewster, Abutter Letter to Planning Board dated 6/24/15 and prepared by Janet Taisey-Craft, Plan entitled "Permit Plan" dated 6/24/15 and prepared by H.L. Graham Assoc. and Donohoe Survey Inc., Letter dated 6/9/15 and prepared by Ankeles, Vontzalides, Ambeliotos and Delaney LLP, Plan entitled "Plan of Land" dated 11/17/14 and prepared by Donohoe Survey Inc. and Additional Info Packet including Wetland Delineation Report and Regulatory Compliance Analysis with plan and document attachments*

### New Public Hearings: Requests for Determination of Applicability:

**MATTER:** U.S. Fish and Wildlife Service for work at Labor in Vain Creek shown on *Tax Maps and Lots [42B, 016G F 0], [42D, 018 0 and 018 B0], [55, 023 0 and 027 0], [44, 009 0]*; Near RR bed shown on *Tax Map 13, Lots 012 07 and 025 0*; Downstream Town Farm Road shown on *Tax Map 13 Lot 028 0* and Fox Creek shown on *Tax Map 44 Lot 009 0* for a **REQUEST FOR DETERMINATION OF APPLICABILITY** for town-wide invasive species control (Phragmites) in jurisdictional areas.

**DISCUSSION:** Present was Nancy Pau from the U.S. Fish & Wildlife Service to request to treat Phragmites town-wide in salt marsh. This is part of a multi-town, on-going program. [Discussion of infected areas.] Ms. Pau referred to a picture of a "Marsh Master" that they have used and would like to use in treating. [Discussion of impacts from this equipment.] Agent Geilen read from a memo based on her conversation with Lealdon Langley, Director of the Wetlands and Waterways Program at the MA DEP Bureau of Resource Protection in Boston, regarding DEP's concurrence on the use of an RDA for this type of work. [Discussion: memo.] **Abutter:** Carl Gardner asked that the Commission not issue the Negative Determination of Applicability because of DEP's concerns. Chairman Hughes stated that there was another meeting where that was denied and that this was the second meeting on the matter. DEP's advice was sought to simplify the process. Chairman Hughes felt that the U.S. Fish and Wildlife were right for the job. Agent Geilen stated that waivers were requested [engineered plans (not required), formal delineation and fees] and she thought they were reasonable.

### RECOMMENDATION OF AGENT:

*To grant request of waivers and to issue a Negative DA #2 and #6.*

### MOTION:

♦ A motion was made by Vice-Chair ffollriott to approve the waivers as requested. The motion was seconded by Commissioner McDavitt and passed unanimously.

♦ A motion was made by Commissioner McDavitt to issue a Negative Determination of Applicability #2 and #6. The motion was seconded by Commissioner O'Neill and passed unanimously.

### ACTION ITEMS / SPECIAL INSTRUCTIONS:

- ❖ *None*

### DOCUMENT LIST:

*Mandatory pre-filing checklist, WPA Form 1 Request for Determination of Applicability Form, Legal Ad, Locus Map, Plans entitled "Fox Creek Infested Parcel", "Near RR Bed and Downstream Town Farm Road" and Labor in Vain Creek Phragmites Infested Parcel" not dated and prepared by US Fish and Wildlife Service*

**MATTER:** Dennis Sullivan for work at 30 Turnpike Road shown on **Tax Map 38C, Lot 6** for a **REQUEST FOR DETERMINATION OF APPLICABILITY** to construct an addition and detached garage in jurisdictional areas.

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<p><b>DISCUSSION:</b> Present was Ari Nikolaou the homeowner. Mr. Sullivan, the applicant, is his contractor. Agent Geilen gave a review of the matter and discussed the special conditions. Agent Geilen stated that they applicant had asked for a waiver for a formal delineation. She stated the proposed addition was about 90 feet from the wetland area, based on a review of the wetland line on an adjacent lot. She felt the waiver was reasonable. Agent Geilen stated that the project was exempt of the WPA. Chairman Hughes stated there should be special conditions, including temporary erosion control, pre- and post-construction inspections, and the site should be stabilized immediately afterwards. [Discussion: NDZ] Agent Geilen did not think signage was needed because of how far away from the wetlands it was. Chairman Hughes suggested 2 NDZ posts with signs. Commissioner Carney-Feldman agreed with Chairman Hughes to have monumentation.</p>
<p><b>RECOMMENDATION OF AGENT:</b>  <i>To grant the wavier and issue a Negative DA #3 and #6 with Special Conditions discussed.</i></p>
<p><b>MOTION:</b></p> <ul style="list-style-type: none"> <li>♦ A motion was made by Vice-Chair ffolliott to approve the waivers as requested. The motion was seconded by Commissioner O'Neill and passed unanimously.</li> <li>♦ A motion was made by Vice-Chair ffolliott to issue #3 and #6 Negative DA subject to special conditions including temporary erosion control, pre- and post-construction inspections, immediate stabilization upon completion of work and requirement of 2 posts with signage to monument the NDZ. The motion was seconded by Commissioner Standley and passed unanimously.</li> </ul>
<p><b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b>          ❖ None</p>
<p><b>DOCUMENT LIST:</b>  <i>Mandatory pre-filing checklist, WPA Form 1 Request for Determination of Applicability Form, Legal Ad, Locus Map, Plan entitled "Sketch Plan" dated 6/16/15</i></p>

**New Public Hearings/Notice of Intent and Formal Amendments:**

<p><b>MATTER: 36-1261: Delores D. Grant</b> for work at <b>435 Linebrook Road</b> shown on <b>Tax Map: 37C Lot: 029</b> for a <b>NOTICE OF INTENT</b> to <b>upgrade septic system</b> in jurisdictional areas.</p>
<p><b>DISCUSSION:</b> Present was Bill Manuell from Wetlands &amp; Land Management, Inc. Mr. Manuell gave a review of the matter and asked for the OOC to go forward. No DEP Comments. They do expect approval from BOH.</p>
<p><b>RECOMMENDATION OF AGENT:</b>  <i>To close the public hearing and issue a positive OOC with standard Special Conditions.</i></p>
<p><b>MOTION:</b></p> <ul style="list-style-type: none"> <li>♦ A motion was made by Commissioner Carney-Feldman to close the public hearing and issue a Positive OOC with Special Conditions. The motion was seconded by Commissioner McDavitt and passed unanimously.</li> </ul>
<p><b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b>          ❖ None</p>
<p><b>DOCUMENT LIST:</b>  <i>Packet prepared by C.G. Johnson Engineering dated 6/17/15 including: Mandatory Pre-filing Checklist, WPA Form 3 Notice of Intent Application, NOI Wetland Fee Transmittal Form, Ipswich Wetlands Protection By-law Filing Fee Calculation Worksheet, Plan entitled "Site Plan" dated 6/17/15 and prepared by C.G. Johnson Engineering, Legal Ad and Locus Map, Notification of Abutters, Abutters List, Affidavit of Service.</i></p>



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**MATTER: 36-\_\_\_\_ : 439 Linebrook Road Realty Trust** for work at **439 Linebrook Road** shown on **Tax Map: 37C Lot: 027** for a **NOTICE OF INTENT to construct a stormwater infiltration system with associated grading and grading for proposed septic system** in jurisdictional areas.

**DISCUSSION:** Present was Larry Graham of H.L. Graham Associates. Mr. Graham gave an overview of the matter. [Discussion of infiltration chambers, small retention depression proposed for driveway.] No DEP file number. [Discussion of riprap at the outlet pipe for infiltration overflow inside of the erosion controls. Waiver needed for NBZ.] Chairman Hughes suggested marking something additional toward the property line. Agent Geilen suggested adding a few blueberry bushes to the infiltration area. Commissioner Carney-Feldman suggested red osier dogwood instead. Commissioner Standley would like to see the depression planted as a rain garden. [Discussion: Add plantings in rain garden.]

**RECOMMENDATION OF AGENT:**

*To continue the hearing to receive revised plans that show the outfall riprap pulled back a few feet, and the addition of one more permanent marker of the NDZ at the western property boundary and it should be granite.*

**MOTION:**

♦ **A motion was made by Commissioner Standley to continue to July 15, 2015. The motion was seconded by Commissioner Carney-Feldman and passed unanimously.**

**ACTION ITEMS / SPECIAL INSTRUCTIONS:**

❖ *None*

**DOCUMENT LIST:**

*Packet prepared by H.L. Graham Associates dated 6/17/15 including: Mandatory Pre-filing Checklist, WPA Form 3 Notice of Intent Application, NOI Wetland Fee Transmittal Form, Ipswich Wetlands Protection By-law Filing Fee Calculation Worksheet, Plan entitled "Subsurface Sewer Disposal System Plan" revised date 6/17/15 and prepared by H.L. Graham Associates, Legal Ad and Locus Map, Notification of Abutters, Abutters List, Affidavit of Service.*

**MATTER: 36-1260: Carl E. Gardner, Jr.** for work at **4 Emery Lane** shown on **Tax Map: 30C Lot: 79** for a **NOTICE OF INTENT to construct a new single family home with attached garage, driveway, deck, related grading and landscaping** in jurisdictional areas.

**DISCUSSION:** Present was Carl Gardner. Mr. Gardner gave a summary of the revisions to the plan and new information submitted. He stated that waivers were being requested for NBZ and NDZ because of the small lot. [Discussion of wetland boundaries, flagging, mitigation plan, roof runoff, straw wattles, setback requirements and waivers.] Chairman Hughes discussed giving back some of the fenced area to NDZ after construction. The fence needs to be on the plan. [Discussion: applicability of the Stormwater Bylaw.] Mr. Gardner stated that he believed that stormwater management calculations prepared by Meridian when the subdivision was permitted was sufficient. [Discussed stormwater calculations from Meridian.] Mr. Gardner asked for a waiver from stormwater calculations. [Discussion of current stormwater management requirements.] Chairman Hughes stated the standards are different now. Chairman Hughes stated that they need to review the stormwater checklist.

**RECOMMENDATION OF AGENT:**

*To continue to July 15, 2015*

**MOTION:**

♦ **A motion was made by Vice-Chair ffolliott to continue to July 15, 2015. The motion was seconded by Commissioner Standley and passed unanimously.**

**ACTION ITEMS / SPECIAL INSTRUCTIONS:**

❖ *Applicant to provide DEP Stormwater Report.*

**DOCUMENT LIST:**

*Mandatory Pre-filing Checklist, WPA Form 3 Notice of Intent Application, NOI Wetland Fee Transmittal Form, Ipswich Wetlands Protection By-law Filing Fee Calculation Worksheet, Legal Ad and Locus Map, Notification of Abutters, Abutters List, Affidavit of Service*



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**Other Business:**

**MATTER: 36-1258: Nicholas Steenhaut** for work at **66 Town Farm Road** shown on **Tax Map: 21 Lot: 47A** for a **MINOR MODIFICATION** for revisions to the Order of Conditions.

**DISCUSSION:** Present was Nicholas Steenhaut. Mr. Steenhaut stated that he believed there were errors in the OOC he received. He was particularly concerned about the limitation to only mow the NDZ annually in the fall. Agent Geilen asked for Commission confirmation on whether there were scrivener's errors or not. Mr. Steenhaut stated there were a few categories of issues. [Discussion: mowing the NDZ, distance to wetland, mowing annually vs regularly, mowing 1-2 lawn mower widths to allow electric fence to work properly.] Mr. Steenhaut was concerned with not having equipment to mow high grass. Chairman Hughes stated the Commission does not look at it that way and they have the same regulations for others. Mr. Steenhaut stated that his project was not very different from what was there before. Agent Geilen stated that the Commission already ruled that it was a change in use. Mr. Steenhaut disagreed. He was concerned with granite markers and would like them waived so he could put a fence in. Mr. Steenhaut stated he was just trying to use as much of his land as possible. Commissioner Standley stated that he recalled saying that mowing around the Paddocks was a reasonable request for making it easier for the moving of the fencing. He felt the other area could be annually or semi-annually. Commissioner O'Neill agreed. Agent Geilen was concerned that it is a NDZ being mowed and if you allow it, you are setting a precedent for others. Commissioner O'Neill stated he would normally agree but that this matter was different and did not think it would set a precedent. Chairman Hughes was concerned with changing the order. She stated that this needs to be done under a formal amendment. She stated that the Commission will reconsider and file a formal amendment unless they can find a way to amend the OOC. Agent Geilen will review the DEP amendment policy. Mr. Steenhaut requested a waiver for the Minor Modification fee. Mr. Steenhaut questioned the permanency of the NDZ. Chairman Hughes stated it was permanent. Mr. Steenhaut questioned about stockpiling and internal inconstancy. Agent Geilen will check scrivener's error regarding the distance of manure pile to wetland.

**RECOMMENDATION OF AGENT:**

*None*

**MOTION:**

- ♦ **A motion was made by Commissioner Standley to deny the minor modification with the exception of scriveners' error. The motion was seconded by Commissioner McDavitt and passed unanimously.**

**ACTION ITEMS / SPECIAL INSTRUCTIONS:**

- ❖ *Agent to review DEP policy for amending OOCs, and revise the OOC regarding the setback for the manure pile.*
- ❖ *Applicant to file for a Formal Amendment if he wishes a reduced NDZ or increased mowing rights.*

**DOCUMENT LIST:**

*Request for Minor Modification Letter dated 6/18/15 and prepared by Nicholas Steenhaut*

**MATTER: 36-1205: Nominee Trust Services LLC (Pirie)** for work at **259 Argilla Road** shown on **Tax Map: 44 Lot: 25** for a **MINOR MODIFICATION** to the Order of Conditions to add a well.

**DISCUSSION:** No one was present for the matter. Agent Geilen stated that Mr. Weatherall presented a citizen's query last week and was told a minor modification would be appropriate for the well. The well was inadvertently left off the approved plan. The applicant paid for the minor modification and the well is out of the NBZ.

**RECOMMENDATION OF AGENT:**

*To approve the Minor Modification.*

**MOTION:**

- ♦ **A motion was made by Commissioner Standley to approve the Minor Modification. The motion was seconded by Commissioner Carney-Feldman and passed unanimously.**

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<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> ❖ None
<b>DOCUMENT LIST:</b> <i>Request for Minor Modification Letter dated 6/24/15 and prepared by Robert Weatherall, Ipswich Wetlands Protection By-law Filing Fee Calculation Worksheet, Proposed Site Plan Changes stamped in by Conservation on 6/25/15</i>

**Requests for Certificates of Compliance:**

<b>MATTER: 36-419; 4 Nuthatch Road</b> for Mike Wallis for demolition and re-construction of a single family house
<b>DISCUSSION:</b> Present was Larry Graham of H.L. Graham Associates. Mr. Graham gave a review of the matter. [Discussion of deck removal, riprap with level spreader and runoff, wood pilings and lawn area.] Agent Geilen stated the wood timbers were to be removed. [Discussion of comparison of plans and removal of retaining wall/ plantings in lawn area.]
<b>RECOMMENDATION OF AGENT:</b> <i>To put the COC request on hold. ICC to issue an EO for restoration work. The owner to submit an after-the-fact NOI, with triple fees for each activity, for work that will remain (gator track from the driveway to the boulder by the chimney; 2 slate patios and a stone patio). Requests waivers in the ATF NOI for work to remain in the NDZ and NBZ (deck and retaining wall), and 1.5:1 provide mitigation. Permanent demarcation of a NDZ should also be required.</i>
<b>MOTION:</b> ♦ A motion was made by Vice-Chair ffolliott to issue an EO for restoration as discussed. The motion was seconded by Commissioner Standley and passed unanimously.
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> ❖ None
<b>DOCUMENT LIST:</b> <i>Letter dated 6/18/15 prepared by H.L. Graham Associates and plan entitled "Plan" revision date 6/17/15, prepared by H.L. Graham Associates</i>

<b>MATTER: 36-484; 4 Nuthatch Road</b> for Mike Wallis for construction of steps to the beach.
<b>DISCUSSION:</b> See above.
<b>RECOMMENDATION OF AGENT:</b>
<b>MOTION:</b> ♦ N/A
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> ❖ None
<b>DOCUMENT LIST:</b> <i>Letter dated 6/18/15 prepared by H.L. Graham Associates and plan entitled "Plan" revision date 6/17/15, prepared by H.L. Graham Associates</i>

<b>MATTER: 36-942: 439 Linebrook Rd,</b> McHugh request for Certificate of Compliance
<b>DISCUSSION:</b> Present was Larry Graham of H.L. Graham Associates. Mr. Graham stated that all required work had been completed. Agent Geilen confirmed this, based on Bill Decie's site visit.

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<b>RECOMMENDATION OF AGENT:</b> <i>To issue a Full and Final COC.</i>
<b>MOTION:</b> <p style="text-align: center;">♦ A motion was made by Commissioner Standley to issue a Full and Final COC. The motion was seconded by Commissioner O'Neill and passed unanimously.</p>
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> <p style="text-align: center;">❖ None</p>
<b>DOCUMENT LIST:</b> <i>None</i>

<b>MATTER: 36-725: 105 Town Farm Road,</b> Kubik request for Certificate of Compliance
<b>DISCUSSION:</b> Present was Larry Graham of H.L. Graham Associates. Mr. Graham gave an overview of the matter. The plans had been revised to restrict mowing to 2 times a year. Agent Geilen stated that the OOC had expired and that if the applicant wanted to do that work he would have to file a new NOI or RDA. [Discussion: how to approve ATF, exemptions under regulations.] Chairman Hughes suggested an after-the-fact RDA with triple fees for stairs and walkway, with everything else under the EO and monitoring in the Spring. Mr. Graham stated they could do it for 12 months. Chairman Hughes stated to give them to June 30, 2016.
<b>RECOMMENDATION OF AGENT:</b> <i>To put the COC request on hold, and require an after-the-fact RDA with triple fees for the front steps and gravel path, as well as completion of the non-native invasive plant control work and loaming and seeding the "dirt cart path". Once the new NOI has been issued, the COC for 36-725 can be approved and issued.</i>
<b>MOTION:</b> <p style="text-align: center;">♦ A motion was made by Vice-Chair ffolliott to issue the EO as described. The motion was seconded by Commissioner McDavitt and passed unanimously.</p>
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> <p style="text-align: center;">❖ None</p>
<b>DOCUMENT LIST:</b> <i>Letter dated 6/18/15, from Graham Associates Inc. and revised plan entitled "Plan" revised date 6/18/15, prepared by Graham Associates, Inc.</i>

<b>MATTER: 36-424: 17 Bayview Road,</b> Hughes Trust request for Certificate of Compliance
<b>DISCUSSION:</b> There was no one present for this matter.
<b>RECOMMENDATION OF AGENT:</b> <i>To continue to July 15, 2015 for a site visit.</i>
<b>MOTION:</b> <p style="text-align: center;">♦ A motion was made by Commissioner O'Neill to continue to July 15, 2015. The motion was seconded by Commissioner McDavitt and passed unanimously.</p>
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> <p style="text-align: center;">❖ None</p>
<b>DOCUMENT LIST:</b> <i>None</i>

<b>MATTER: 36-1134: 95 Linebrook Road,</b> Webber request for Certificate of Compliance.
<b>DISCUSSION:</b> Present was Larry Graham of H. L. Graham Associates. Agent Geilen stated that the new shed

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hangs over the old foundation by about 6-8".
<b>RECOMMENDATION OF AGENT:</b> <i>To require the owner to install 3 permanent No-Disturbance signs at the current limit of clearing as mitigation for this. Once the signs are in, approve a full and final COC.</i>
<b>MOTION:</b> ♦ A motion was made by Commissioner Standley to approve the COC when wetland markers are up. The motion was seconded by Commissioner McDavitt and passed unanimously.
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> ❖ None
<b>DOCUMENT LIST:</b> <i>COC request, As-built plan entitled "Plan" dated 6/18/15, prepared by Graham Associates Inc. and letter of substantial compliance dated 6/18/15, and prepared by Graham Associates Inc.</i>

<b>MATTER: 36-585: 58 County Street,</b> Cutler request for Certificate of Compliance
<b>DISCUSSION:</b> There was no one present for this matter. Agent Geilen stated the applicant requested a waiver of the as-built. [Discussion of waiver with a condition of order/expired over 10 years ago/reviewed order.]
<b>RECOMMENDATION OF AGENT:</b> <i>To approve the waiver request and issue a full and final COC.</i>
<b>MOTION:</b> ♦ A motion was made by Commissioner Standley to approve the waiver as requested and issue a full and final COC. The motion was seconded by Commissioner McDavitt and passed unanimously.
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> ❖ None
<b>DOCUMENT LIST:</b> <i>COC request and waiver of As-built plan</i>

**Enforcement Actions:**

*This matter was taken out of order:*

<b>MATTER: 15 Ward Street: Desmond</b> <i>for unauthorized work in a resource area.</i>
<b>DISCUSSION:</b> Present was Cole Desmond. He put in a float in the wetland to stage fence posts he was replacing in the wetland. He said fence posts are part of an historic cattle grazing area. He said he did not know it was illegal and he had removed the float. The fence posts could be handled as part of an NOI filing for his Farm Gate approval.
<b>RECOMMENDATION OF AGENT:</b> <i>To put the EO on hold until the later matter can be resolved.</i>
<b>MOTION:</b> ♦ N/A
<b>ACTION ITEMS / SPECIAL INSTRUCTIONS:</b> <i>None</i>
<b>DOCUMENT LIST:</b> <i>None</i>

**Discussion Items:**

Interim Reports of Special Project Subcommittees  
*None*

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**Approval of Minutes: 6/3/15, 6/17/15**

♦ A motion was made by Commissioner Carney-Feldman to approve the minutes with changes. The motion was seconded by Commissioner O'Neill and passed unanimously.

**Document Signage: (No Vote Required)**

- 36-1236: 372 Linebrook Rd, Formal Amendment approved 6/17/15
- 36-1248: Shady Creek Cons. Area/MBTA Right-of-Way, approved 6/17/15

**Adjournment:**

♦ A motion was made by Vice-Chair ffolliott to adjourn at 11:00 p.m. The motion was seconded by Commissioner Hunton and passed unanimously.

Respectfully submitted,



Cathy Miaskiewicz  
Recording Secretary

These minutes are the summary of a taped meeting and of secretarial notes. As such, the Ipswich Conservation Commission reserves the right to supplement these minutes with tapes and vice versa, to reflect the proceedings. The Ipswich Conservation Commission does not guarantee the quality of the tapes, nor does it exclusively rely upon them.